United Nations S/AC.25/SR.236

Security Council

Provisional
15 August 2002

Original: English

Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait

Summary record of the 236th meeting (closed)
Held at Headquarters, New York, on Wednesday, 31 July 2002, at 10.30 a.m.

Chairman: Mr. Kolby ..... (Norway)

Contents

Adoption of the agenda

Letters dated 16 and 20 May 2002 from Bahrain and Jordan (*continued*)

Letter dated 19 June 2002 from the Libyan Arab Jamahiriya (*continued*)

Letter dated 24 June 2002 from Tunisia

Letter dated 9 July 2002 from Switzerland

Note verbale dated 18 July 2002 from Qatar *(continued)*

Note verbale dated 19 July 2002 from the Syrian Arab Republic

Other matters

Corrections to this record should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Chief, Official Records Editing Section, room DC2-750, 2 United Nations Plaza.

02-50296 (E)

The meeting was called to order at 10.40 a.m.

Adoption of the agenda

1. *The agenda was adopted.*

Letters dated 16 and 20 May 2002 from Bahrain and Jordan (*continued*) (S/AC.25/2002/COMM.237 and 255)

2. **The Chairman** drew attention to the letters dated 16 and 20 May 2002 (S/AC.25/2002/COMM.237 and 255) from Bahrain and Jordan, respectively, requesting the Committee to authorize the release of frozen funds deposited in Iraq's Rafidain Bank and belonging, respectively, to the Arab War Risks Insurance Syndicate (AWRIS), a pan-Arab insurance organization, and to the Jordanian-Iraqi Company for Industry. At its previous meeting, the Committee had failed to reach consensus on how to proceed.

3. **Mr. Mekdad** (Syrian Arab Republic) said that he had met with the Ambassadors of Bahrain and Jordan, both of whom had expressed the commitment of their respective Governments to the sanctions regime and had given assurances that, if released, the frozen funds would not revert to Iraq. Since the sanctions regime was not intended to punish third parties, especially if those parties were in compliance with the regime, the Committee should adopt a more positive approach and leave the legal aspects of the matter to the appropriate bodies.

4. **Mr. Hillman** (United States of America) said that only the Council had the authority to release frozen assets and the Council had determined that the sanctions against Iraq should remain in place. That view had also been expressed by the Treasurer. There was no precedent for the Committee to unfreeze assets. He would welcome a statement by the Chairman reaffirming that position.

5. **Mr. Geng** Shuang (China) said that the issue had both legal and political aspects and the Committee should first seek the opinion of the Legal Counsel on the question of whether or not the requests of Bahrain and Jordan were legitimate. He recognized, however, that the Committee would also take political considerations into account in deciding how to respond to the requests.

6. **Mr. Bhatia** (Singapore) said that, while he agreed with the representative of China on the usefulness of first obtaining a legal opinion, he also shared the view of the United States that only the Council had the authority to unfreeze assets. Indeed, he believed that the opinion of the Legal Counsel would turn out to be that it was for the Council to construe the meaning of paragraph 22 of its resolution 687 (1991).

7. **Mr. Bye** (United Kingdom) said that the United Kingdom could not support the request to release the funds in question. The Rafidain Bank was an Iraqi entity, all of whose assets, including the deposits of its clients, were frozen. It was his understanding, moreover, that the Bank was insolvent. If that was true, its creditors could not expect to recover the full amounts owed to them and no preferential treatment should be given to the two creditors on whose behalf representation had been made by the Governments of Bahrain and Jordan. In his view, seeking a legal opinion from the Legal Counsel would be a waste of the Secretariat's resources, since the opinion would not influence his delegation's stated position.

8. **Mr. Geng** Shuang (China) said that the Committee had sought the opinion of the Legal Counsel on more than one occasion. In his view, that would constitute an effective use of the Organization's resources. Neither the United States nor the United Kingdom representative had said that the request was not legitimate and there was no getting around the need to clarify the legal aspect of the request. One way of achieving a satisfactory resolution might be for the Committee to convince the States concerned to withdraw the requests.

9. **Mr. Khalizov** (Russian Federation) agreed with the representative of China that it would be useful for the Committee to obtain a legal opinion before responding to the request, even though the opinion would not influence the position that had been taken by the United States and the United Kingdom.

10. **Mr. Hillman** (United States of America) said that the United States did not contest the right of States to submit requests to the Committee. He agreed with the representative of the United Kingdom, however, that the Legal Counsel was likely to give the Committee the same advice as the Treasurer had, which would be a duplication of effort.

11. **Mr. Banoum** (Cameroon) said that it should be borne in mind that the sanctions were not intended to adversely affect third States or to penalize the civilian populations of States under sanctions. In order to move

forward on the matter, the Committee must determine whether the requests concerned mainly non-Iraqi entities, for which a written legal opinion from the Secretariat was essential. The Committee would still, however, have the option of denying the requests.

12. **Mr. Geng** Shuang (China) expressed surprise that the representative of the United States should profess to know that the private opinion of the Legal Counsel would be the same as that of the Treasurer. He proposed that the item should remain on the Committee's agenda for consideration after the Chairman returned from vacation.

13. **Mr. Bye** (United Kingdom) supported the proposal made by the representative of China that the Committee should resume its consideration of the item upon the Chairman's return from his vacation.

14. **The Chairman** said that the item would be included in the agenda of the Committee's next meeting.

Letter dated 19 June 2002 from the Libyan Arab Jamahiriya (*continued*) (S/AC.25/2002/COMM.291)

15. **The Chairman** recalled that, since one member had been awaiting instructions from his capital, the Committee had deferred discussion of the request contained in the letter dated 19 June 2002 from the Libyan Arab Jamahiriya (S/AC.25/2002/COMM.291) to dispose of an estimated 43,000 tons of Iraqi oil on board a tanker at a port in the Libyan Arab Jamahiriya. The tanker was said to have been anchored for over a decade, thereby resulting in significant expenses for Libya as well as being a serious environmental threat to the area. According to the communication, Iraq had ceded and transferred ownership of the tanker and its cargo to the General Corporation of Transport and Communications in the Libyan Arab Jamahiriya and a new buyer, Gulf Horizon, of Panama, had subsequently acquired ownership of the tanker.

16. **Mr. Bye** (United Kingdom) said that his delegation had received instructions from its Government. Its position was that the oil in the tanker should be sold and the proceeds deposited in the escrow account, as provided for in Council resolution 778 (1992). His delegation had serious concerns about the transfer of ownership of the tanker to the Libyan Arab Jamahiriya, which might constitute a breach of the freeze on Iraqi assets. It would therefore welcome additional information in writing from the Permanent Mission of the Libyan Arab Jamahiriya concerning the transfer.

17. **Mr. Hillman** (United States of America) joined the representative of the United Kingdom in expressing concern and requesting additional information on the change of ownership of the tanker.

18. **Mr. Mekdad** (Syrian Arab Republic) said that the Committee should set aside the technical aspects of the issue and focus instead on the environmental consequences for the countries of the Mediterranean of the tanker having remained in the waters of the Libyan Arab Jamahiriya for 11 years as well as the economic losses suffered by that State, for which it should be compensated from the Compensation Fund. In considering the request from the Libyan Arab Jamahiriya, the Committee should take into account the background to the current problem.

19. **Mr. Mauriès** (France) said that members had raised a number of different concerns. Some were concerned at the bilateral arrangements that had been made for the transfer of ownership of the tanker and its cargo, while others were concerned at the environmental consequences resulting from the tanker having been anchored in the port for nearly 12 years. The Committee must address both sets of concerns in its reply. It might wish to request clarification of the arrangements that had been made for the transfer of ownership of the tanker and its cargo and indicate at the same time that the Committee was sensitive to the environmental concerns that had been raised. Depending on the nature of the additional information received, the Committee might give favourable consideration to the request. An additional concern was the impact of the freeze on the tanker on a third party, namely, the Libyan Arab Jamahiriya. The Committee should address the question of how to implement the relevant resolution of the Council regarding compensation for losses suffered by third parties.

20. **Mr. Bhatia** (Singapore) supported the proposal made by the representative of France that the Committee in its reply should request clarification of the transfer of ownership and express sensitivity to the environmental concerns that had been raised. Indeed, the Committee had shown sensitivity to environmental concerns in previous cases, notably when it had supported a proposal to clean the waters of the Arabian Gulf. He hoped that the representatives of the United Kingdom and the United States would also be sensitive

to those concerns. He wondered, moreover, whether the provisions of paragraph 2 of Council resolution 778 (1992) applied to the case under consideration, since the tanker's cargo might have been shipped before the resolution took effect.

21. **Mr. Geng** Shuang (China) said that his delegation accepted Libya's request because several months previously the Committee had accepted by consensus a similar request from Kuwait. The concern expressed by the representative of the United Kingdom regarding ownership had perhaps been based on a misunderstanding. If ownership had been transferred to Libya, then that State could dispose of the matter itself. It had perhaps brought it to the Committee's attention in the belief that the oil still belonged to Iraq. He therefore supported the French proposal that the Committee should seek from Libya clarification as to ownership and that it should give positive consideration to Libya's request. Regarding the United Kingdom's proposal that the proceeds of the sale of the oil should be transferred to the escrow account, he suggested that all reasonable costs should first be deducted.

22. **Mr. Hillman** (United States of America) suggested that the Chairman might draft a letter to the Libyan authorities, based on the comments of the representatives of France and the United Kingdom, and including a reference to the concern about the possible environmental hazard involved, but not necessarily committing the Committee to any particular course of action. He would also be interested in hearing the Treasurer's views on the question raised by the Singapore representative as to whether or not the proceeds of the sale should be placed in the escrow account if the cargo had been loaded prior to the imposition of the sanctions.

23. **Ms. Bishopric** (Treasurer), referring members to paragraph 1 of resolution 778 (1992), noted that, according to the letter from Libya, the Iraqi oil tanker had reached the port of Misrata on 22 February 1992, well past the effective date of the imposition of sanctions. In accordance with paragraph 2 of the same resolution, the funds could clearly be placed in the escrow account. If necessary, she would give deposit instructions.

24. **Mr. Bhatia** (Singapore) suggested that, since the letter had referred to resolution 661 alone, the Chairman might point out in his letter to the Libyan authorities that the relevant provisions were contained in paragraphs 1 and 2 of resolution 778 (1992).

25. **Ms. Bishopric** (Treasurer) said that the question of how the proceeds from the sale of the oil referred to in Libya's letter in the context of resolution 661 (1990) was more specifically addressed in paragraphs 1 and 2 of resolution 778 (1992).

26. **Mr. Mauriès** (France) recalled an earlier decision by the Committee in response to a similar request from Kuwait that the costs of the operation costs should be deducted. The Committee should take the same approach to the Libyan request.

27. **The Chairman** said that he would draft a letter and circulate it for the approval of members under the "no objection" procedure by 1 September.

28. *It was so decided.*

Letter dated 24 June 2002 from Tunisia (S/2002/698)

29. **The Chairman** said the Committee had before it a letter from the Tunisian Government requesting the Security Council, under Article 50 of the Charter of the United Nations, to take note of losses it had incurred as a consequence of the sanctions imposed on Iraq and estimated at approximately $7 billion as of May 2002. The letter claimed that many Tunisian companies had been adversely affected by the sanctions, partly because certain contracts had been put on hold by the Committee. He would welcome suggestions as to how to proceed with the matter, in the light of the Committee's decisions in previous cases.

30. **Mr. Hillman** (United States of America) noted that the Committee had already held numerous discussions under Article 50 of the Charter. It should therefore inform the Tunisian authorities that it would take note of the communication, so as to avoid further unproductive discussions under that Article.

31. **Mr. Mauriès** (France) said that the letter from Tunisia deserved something more than the United States representative had suggested. Tunisia, a former member of the Committee, was not unfamiliar with requests arising from the impact of sanctions on third parties, which had raised the same problems the Committee was now facing. The letter from the Tunisian authorities was not very specific. One solution might be to ask the Permanent Representative of Tunisia what action was required of the Committee, while providing him with information about the

Committee's response to similar requests. A case in point was India, which had sent representatives to present that country's case to the Committee. The Permanent Representative of Tunisia, too, could be invited to appear before the Committee to give a detailed account of the impact of sanctions on the Tunisian economy. Should he consider that unnecessary, the Committee could then adopt the United States proposal. In any event, the Committee should make some proposal to Tunisia, if only for the sake of courtesy.

32. **Mr. Mekdad** (Syrian Arab Republic) said that the Syrian Ambassador to Tunisia had recently taken up the matter bilaterally. Article 50 of the Charter had already consumed a great deal of the Committee's time. Indeed, members would do well to study the recent report of the Secretary-General on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter. He agreed with the proposal of the representative of France, who had aptly defined the dimensions of the Tunisian letter. Had Tunisia made a specific request, the Syrian Arab Republic would have strongly supported it. As things stood, he endorsed the French proposal that the Committee should ask the Permanent Representative of Tunisia to state unambiguously his country's proposals, either in writing or orally before the Committee.

33. **Mr. Hillman** (United States of America) said that, while representatives of India had indeed appeared before the Committee in similar circumstances, an invitation to the Permanent Representative of Tunisia to do the same would send a misleading signal, inasmuch as the Committee lacked the authority to grant assistance under Article 50 of the Charter. Although he was convinced that the Committee would ultimately take no specific action, he would go along with the French proposal.

34. **Mr. Bhatia** (Singapore) said that the Committee, at its 234th meeting, had merely agreed to meet with the Permanent Representative of India, and there was no reason why it should not do the same in the case of Tunisia. Article 50 of the Charter was a very important article and the Committee should display due diligence in its treatment of Tunisia, which had requested the Committee to take note and show understanding of its dilemma. While it was t · that the Committee would not wish to send wrong signals, he would suggest a step-by-step approach in which the Committee would first take note and seek clarification of Tunisia's request and then enquire whether the authorities had any specific proposals to offer. Those steps should precede any invitation to the Permanent Representative to address the Committee. The Chairman could perhaps speak in private to the Permanent Representative to ascertain what was wanted.

35. **Mr. Barcroft** (Ireland) said that he endorsed the French proposal. It was important for the Committee to act consistently even if by doing so it might create false hopes. In any case, Tunisia could hardly feel that a letter from the Committee dramatically raised its hopes. The Committee would surely not wish Tunisia to think that it was being treated differently. He agreed with the representative of Singapore that the matter should be dealt with incrementally, with the Committee using the language of the Tunisian letter and the figures it contained as a basis for communication and only then invite the Permanent Representative to speak to the Committee, if appropriate.

36. **Mr. Bye** (United Kingdom) said that, although he agreed with the French representative that the letter from the Tunisian authorities was not very specific, it did ask the Committee to take note of its contents. The Committee's response could therefore be a letter taking note, after which it would be for the Tunisian authorities to furnish more details in writing or to request to appear before the Committee.

37. **Mr. Mauriès** (France), supported by **Ms. Beshkova** (Bulgaria), said that, while he endorsed the more progressive approach that had been suggested, it was important to give the same treatment to all countries, some of which might be reluctant to request an appearance for fear of refusal. In any event, before an invitation was issued, Tunisia could be apprised of the recent adoption of Security Council resolution 1409 (2002), which established the procedures for the processing of applications currently on hold.

38. **Mr. Geng** Shuang (China) said that in a recent informal conversation with the Tunisian delegation on the matter, he had been told that what Tunisia was requesting was respect for and understanding of its problems. He endorsed the French proposal that the Chairman should write to the Permanent Representative of Tunisia to ascertain his Government's specific wishes. If the Permanent Representative wished to brief the Committee he could

do so, which would be an improvement on simply taking note of the letter.

39. **Mr. Banoum** (Cameroon) agreed with the opinions expressed by the Chinese, French and Irish representatives. If the Permanent Representative of Tunisia had simply wished note to be taken of the letter, he would not have taken the trouble to write. The second part of the letter stated what was being asked of the Committee. The Chairman should therefore invite the Permanent Representative to appear before the Committee if he so wished.

40. **Mr. Khalizov** (Russian Federation) said it was by no means the first time that the Committee was considering the implications of Article 50 of the Charter. He agreed with the representative of China that Tunisia deserved understanding and respect at the very least. The Tunisian authorities should be asked to clarify their request and the Committee should adopt a more flexible approach to the matter.

41. **The Chairman** said that the best course of action might be for him to ascertain from the Permanent Representative of Tunisia whether he would like to receive a letter from the Committee requesting further information. He could also inform him that representatives of other States had appeared before the Committee to explain their case, a procedure with which, as a former member of the Committee, he would surely be familiar.

42. *It was so decided.*

Letter dated 9 July 2002 from Switzerland (S/AC.25/2002/COMM.319)

43. **The Chairman** drew attention to a letter dated 9 July 2002 from the Permanent Observer for Switzerland to the United Nations (S/AC.25/2002/COMM.319). The letter was a response to his letter of enquiry, dated 18 December 2001 (S/AC.25/2001/OC.505), in which he had asked a number of questions concerning the allegations that the Swiss company Glencore International AG had intended to divert Iraqi oil from its original destination for sale in Europe. The Government of Switzerland had submitted a previous report on Glencore's activities, dated 8 October 2001 (S/AC.25/2001/COMM.465), which the Committee had considered at its 227th meeting, on 3 December 2001, and had found to contain insufficient information. In the letter now before the Committee, additional information was provided on the port of Omisalj in Croatia and on the relevant storage and shipping documentation. The letter concluded by reiterating the view of the Swiss authorities that there was no proof that Glencore had intended to divert the oil shipment from its original destination and sell it in Europe and that there was thus no reason to reopen the enquiry into the company.

44. **Mr. Mauriès** (France) said that he would be interested to hear the reaction of the oil overseers to the information provided in the letter. According to the Swiss authorities, the independent oil inspection agents, Saybolt, could confirm that the port of Omisalj was used from time to time for the export of crude oil. He had not been aware, however, that Saybolt was present in Croatia.

45. **Mr. Kramar** (Oil Overseer) said that, while Saybolt Croatia was a division of Saybolt Nederland BV, the independent oil inspection company responsible for monitoring the export of Iraqi oil under Security Council resolution 986 (1995), the activities of Saybolt's Croatian division were quite separate from those of the independent oil inspection agents.

46. **Mr. Bye** (United Kingdom) noted that there were no documents proving Glencore's intention to ship the cargo of oil in question to the United States. It would therefore be helpful to see the documents pertaining to the sale of the oil. He recalled that, while the oil had been unloaded in the port of Omisalj on 5 March 2001, the Committee had not obliged the company to sell the oil in Europe until 6 April 2001. If it was true that, prior to that date, Glencore had had no intention of selling the oil in Europe, all the sales documents would be dated after 6 April 2001. The Chairman should write to the Swiss authorities requesting them to provide the Committee with the relevant documents.

47. **Mr. Hillman** (United States of America) expressed support for the proposal made by the representative of the United Kingdom.

48. **Mr. Geng** Shuang (China) pointed out that similar allegations concerning the diversion of Iraqi oil had been made against the Trafigura company. The Chairman of the Committee had drafted letters of enquiry to the authorities of the States concerned, but no replies had been received and the matter was still pending.

49. **Mr. Hillman** (United States of America) said that his Government had been asked to provide information

concerning the case of Trafigura and had launched an investigation. He would enquire as to the progress of the investigation and inform the Committee thereon at a later date.

50. **Mr. Mauriès** (France) said that, given the misleading reference to Saybolt, the value of the explanations provided by Glencore in the letter before the Committee was somewhat questionable. His delegation was therefore inclined to support the United Kingdom proposal.

51. **Mr. Mekdad** (Syrian Arab Republic) noted that the Swiss authorities were of the opinion that all relevant information and explanations pertaining to the matter under discussion had been provided.

52. **The Chairman** suggested that he should draft a letter to the Permanent Observer for Switzerland along the lines proposed by the representative of the United Kingdom for circulation to delegates under the "no objection" procedure.

53. *It was so decided.*

Note verbale dated 18 July 2002 from Qatar
(*continued*) (S/AC.25/2002/COMM.286/Add.1)

54. **The Chairman** drew attention to a note verbale dated 18 July 2002 from the Permanent Mission of Qatar to the United Nations (S/AC.25/2002/COMM.286/Add.1) transmitting a letter from the Al Jazeera Simatech Shipping Company. He recalled that the Committee had discussed at several meetings a request by Qatar to establish a passenger ferry service between Doha and Umm Qasr in Iraq. At its previous meeting, the Committee had decided to continue its consideration of the matter when more information was available. The letter from Al Jazeera Simatech provided additional information on arrangements for land-based monitoring to ensure that the proposed ferry service would not violate any Security Council resolutions. He noted that the Committee was still awaiting updated information from the Multilateral Interception Force (MIF).

55. **Mr. Hillman** (United States of America) said that he would seek to expedite the provision of the updated information requested from MIF. The presence of a reliable verification mechanism was a prerequisite for the approval of any proposed ferry service. In December 1997, the Committee had authorized the operation of ferry services between the United Arab Emirates and Iraq, specifying a number of conditions. Regrettably, those conditions had not been respected. Until his delegation could be satisfied that no unauthorized cargo was being carried on the existing services, it would oppose any request to establish new ferry services.

56. **Mr. Bye** (United Kingdom) said that his delegation concurred with the representative of the United States that the Committee must first solve the generic problem of violations by the existing ferry services before dealing with any new requests. He noted that, in the letter before the Committee, Al Jazeera Simatech clearly stated its intention of carrying cargo, which would be in contravention of the Committee's rules.

57. **Mr. Mauriès** (France) said that it was illogical to make the approval of the Qatari request conditional on a solution to the problem of the alleged breaches by the United Arab Emirates ferry services. The Qatari authorities had provided assurances that the proposed ferry service would not violate any Security Council resolutions. Moreover, the Committee had the means of ensuring that any conditions it laid down for the service's operation would be respected. The Committee had also received requests from Bahrain and Oman to establish ferry services to Iraq. He feared that, with the Committee going round in circles on the issue, those States might proceed without its approval. If that happened, the Committee would have only itself to blame.

58. **Mr. Bhatia** (Singapore) said that, while his delegation took very seriously the concerns about breaches of the sanctions by some ferry services in the area, it was not fair to speak of a generic problem, tarring all States with the same brush. The position of certain delegations on the issue lacked consistency. In October 2001, the United Kingdom delegation had expressed its willingness to approve the Qatari request, subject to a guarantee by that Government that it would carry out full cargo inspections, whereas, in May 2002, it had said that it would propose a package solution aimed at addressing all the concerns relating to the operation of ferry services to Iraq. The United States delegation, for its part, was insisting on a MIF briefing that never came. The Committee must move forward on the issue for the sake of its own credibility. Those delegations that opposed the solutions put forward thus far should come up with alternatives.

59. **Mr. Geng** Shuang (China) said that his delegation would also welcome the provision of updated information by MIF, but the Committee should not make it a precondition for the approval of the Qatari request. He noted, in that connection, that the Permanent Representative of Qatar would be willing to make a presentation to the Committee in order to allay members' concerns. Lastly, he emphasized that the Committee should consider requests for the establishment of new ferry services on a case-by-case basis.

60. **Mr. Mekdad** (Syrian Arab Republic) said that his delegation, too, was willing to hear the contribution of MIF to the debate, although it was not clear when that would happen. He agreed that the Committee should not judge the Bahraini, Omani and Qatari requests on the basis of the allegations that had been made against the United Arab Emirates ferry service. He had met with the Permanent Representative of that State, who wished to study the allegations. Al Jazeera Simatech had expressed the wish to carry cargo within the framework of the oil-for-food programme; that would not constitute a violation of the sanctions against Iraq. Since the company was ready to abide by the rules, it was difficult to understand why the Qatari request could not be approved.

61. **Mr. Hillman** (United States of America) said that one cause for concern was the fact that Al Jazeera Simatech intended to operate the proposed ferry service in collaboration with Naif Marine, the company operating the services between the United Arab Emirates and Iraq. His delegation had put forward several solutions that would enable it to approve the Qatari request. First, it had suggested that inspectors should be stationed at all Iraqi ports to inspect the cargoes of ferries on arrival, but there had been concern that that would exceed the Committee's mandate. Then, it had proposed that MIF inspectors should examine cargoes at ports of departure, but such an arrangement would place an additional burden on the United Nations, whereas it was the responsibility of Member States to ensure the full implementation of the sanctions against Iraq.

62. **Mr. Barcroft** (Ireland) expressed support for the views expressed by the representatives of France and Singapore. His delegation, too, was uneasy about the linking of the various requests to establish ferry services. While it was committed to upholding the relevant Security Council resolutions, it objected to the heavy-handed approach adopted by some delegations. The proposal made by the representative of the United States regarding the conduct of inspections in ports of departure merited further consideration. He would be interested to hear the views of MIF in that regard.

63. **Mr. Mauriès** (France), referring to the suggestion of the representative of the United States that officials of the Office of the Iraq Programme could be asked to perform inspections of vessels at ports of arrival, said that Iraq would need to give its consent. It seemed improbable, however, that it would. Inspections at the port of departure seemed a more likely solution, carrying two alternatives. The first was to request MIF to carry out those functions. The representative of the United States was best placed to indicate how feasible that approach might be. The second was to inform any State wishing to launch a ferry service that the Committee was prepared to approve its application, provided that it could ensure that the vessels' cargoes complied with the sanctions in place. Compliance could be checked by a reliable, internationally reputable private company, such as Lloyd's Register. If countries making requests to operate ferry services undertook to adhere to the sanctions regime, they should be taken at their word and held responsible for enforcing those sanctions.

64. **Mr. Khalizov** (Russian Federation) said that he too was concerned that the Committee had been unable for so long to resolve the issue of requests from States to establish maritime transport links with Iraq. From a humanitarian point of view, the request from Qatar was justified and well-founded. The Russian Federation was prepared to be flexible in seeking a solution, but the matter was a delicate one. In considering whether MIF inspectors could be stationed at ports of departure, account had to be taken of the Force's own mandate, which was based on the regime of sanctions against Iraq. Having MIF perform tasks in States other than Iraq or in neutral waters might violate that mandate. In any event, the reaction of the States concerned — whether to MIF inspections or to inspections by reputable private companies — would need to be investigated, as their agreement would be required. If thought was being given to using the services of private companies, the matter of who would pay for those services needed to be addressed, since the States concerned or the Office of the Iraq Programme might find the financial implications unacceptable.

65. **Mr. Bhatia** (Singapore) said that, in the light of the suggestion made by the representative of France to use the services of reputable private companies for inspections, thought could be given to drawing up a "green list" of marine service operators. That also reflected the observation of the representative of the United States that the conduct of Naif Marine had been questionable and that consideration seemed to have contributed to the backlog of unsatisfied requests to establish transport links. The Committee should perhaps address the specific points raised in the letter from the Permanent Mission of Qatar: first, the fact that Al Jazeera Simatech appeared to believe that the Committee was not being even-handed in granting permission for marine transport links, and, second, the fact that the company seemed to have confidence in Naif Marine.

66. He too questioned the change of position of the Government of the United Kingdom, which was reluctant to give its consent to the proposed route from Qatar, even though it had agreed in the past to approve similar services if governments could guarantee that full inspections would be carried out. Providing a response was essential to the credibility of the Committee, as the issue had remained unresolved for a year and a half.

67. **Mr. Hillman** (United States of America) suggested that the Secretariat and the Office of the Iraq Programme might be asked to provide the Committee with an assessment of the human and financial resources that would be needed for a private company to perform inspections at ports of departure, thus avoiding the possibly contentious involvement of MIF. He requested clarification of the reference that the representative of France had made to vessels' cargoes. The letter sent by the Committee in December 1997 had stipulated that vessels should carry passengers and their immediate personal effects only, so cargo was currently prohibited.

68. **Mr. Mauriès** (France), clarifying his earlier proposal, said that his motivation had been to promote a consistent approach by the Committee and to ensure its credibility. What he had in fact proposed was that the Committee should reply to requests from States by saying that it would give approval for the establishment of maritime services in principle, subject to the establishment of inspection mechanisms under the applicants' own authority and using their own funds. The inspection itself would be delegated to a reputable and internationally known company. Such an arrangement for cargo, though on a much larger scale, had been used for some years to general satisfaction at the Jordanian port of Aqaba, where the Jordanian authorities had ensured compliance with the sanctions regime, independently of the Office of the Iraq Programme and the United Nations. States wishing to establish maritime transport links could include the cost of inspections in their calculations and gauge whether the transport links would be cost-effective.

69. **Mr. Geng** Shuang (China) said that he doubted that a consensus on the matter under discussion could be reached before the end of the meeting. He had no instructions from his capital and therefore favoured halting the debate. He wished to point out, however, that China was unable to support the proposal made by the representative of the United States to ask the Office of the Iraq Programme to become involved. It was premature for the Committee to discuss deploying inspectors. As the representative of the Russian Federation had pointed out, the issue was a complex and sensitive one from the point of view of funding and the reaction of the States affected. The Committee should therefore proceed with caution.

70. **Mr. Hillman** (United States of America) echoed the suggestion of the representative of China that the Committee should move on to another item.

71. **Mr. Geng** Shuang (China) said that he believed that the matter could best be handled through informal discussion.

72. **Mr. Mekdad** (Syrian Arab Republic) asked whether there were any genuine doubts regarding the guarantees provided by the United Arab Emirates against violations of the sanctions in the operation of existing passenger and cargo services. The United Arab Emirates had repeatedly expressed readiness to investigate allegations of specific violations.

73. **Mr. Hillman** (United States of America) appealed to the members of the Committee to consider his own proposal for international inspectors unconnected to any single country as well as the proposal of the representative of France for inspectors to operate under the responsibility of a particular State. His Government would be unable to support the latter approach. Furthermore, in the light of the observations made by the representative of the Syrian Arab Republic, the Committee might wish to consider whether, in addition to MIF and with the agreement of

the Government of the United Arab Emirates, international inspectors could investigate the Jebel Ali ferry service and the Naif Marine service to determine whether the persistent allegations of violations were in fact true.

74. **The Chairman** invited the Committee to give thought before its next meeting to the proposals that had been made, since the States that had asked to establish transport services were awaiting a response.

Note verbale dated 19 July 2002 from the Syrian Arab Republic (S/AC.25/2002/COMM.332)

75. **The Chairman** drew attention to the note verbale dated 19 July 2002 from the Syrian Arab Republic (S/AC.25/2002/COMM.332) requesting permission to use Iraqi airspace outside the "no-flight zone" for Syrian flights between Damascus and Tehran. Syrian Arab Airlines currently conducted its flights through Turkish airspace. According to the note verbale, the trip between the two locations could be shortened by approximately 35 minutes if Iraqi airspace could be used. The representative of the Syrian Arab Republic might wish to provide further information on the matter.

76. **Mr. Mekdad** (Syrian Arab Republic) said that the note verbale from his Government set out the issue clearly: it was one of economic considerations, as the route through Turkish airspace was a long one. He hoped that the Committee would agree to the request.

77. **Mr. Hillman** (United States of America) said that the letter from the Syrian authorities had left one issue unclear, namely, whether Iraq was to receive any financial benefit, for example in the form of overflight fees. A similar issue had arisen in connection with Ariana Afghan Airlines and sanctions against the Taliban. His delegation could not lend support to the request at the current stage until further clarification was provided.

78. **Mr. Geng** Shuang (China) said that the request from the Syrian Arab Republic related only to use of Iraqi airspace, not to landing in Iraq. No violations of the resolutions regarding Iraq would occur, as the resolutions did not deal with overflights. If the concerns of the delegation of the United States could be met, he favoured approving the request.

79. **Mr. Mauriès** (France) said that he was struggling to understand why the Syrian Arab Republic had applied to the Committee at all to use Iraqi airspace. The resolution said nothing about overflying Iraq, so the only obstacle to doing so would be the opposition of the Iraqi authorities. There was no such opposition. As a result, he took the view that the Committee should inform the Syrian Arab Republic that it had no authority to handle its request.

80. **Mr. Bye** (United Kingdom) said that his delegation was inclined to be constructive in its consideration of the request made by the Syrian Arab Republic, but, like the delegation of the United States, it needed assurances that the proposed arrangements were consistent with the sanctions regime as well as clarification of whether Iraq would receive economic or financial benefits for access to its airspace and whether the flights in question would land in Iraq.

81. **Mr. Bhatia** (Singapore) said that if the Committee was indeed the appropriate forum to handle the request, then his delegation would support approval. The Secretary of the Committee or a member of the Secretariat should be asked to check whether any similar requests had been submitted to the Committee in the past so as to provide more information for future discussion.

82. **Mr. Khalizov** (Russian Federation), echoing the views of the delegations of France and China, said that the Security Council resolutions concerning Iraq did not prohibit overflights. However, mindful of the terms of those resolutions, he emphasized that Iraq could not receive payments for access to its airspace. It would be appropriate to direct the Committee's attention to the opinion of the Office of Legal Affairs regarding the payment of transport or port fees in dinars. The Legal Counsel had considered that such payments did not violate the Security Council resolutions concerning Iraq.

83. On the basis of the principle that the Security Council resolutions concerning Iraq did not prohibit flights which did not land in Iraq, his delegation supported the proposal by the representative of France that in its reply to the Syrian Arab Republic the Committee should state that it had no authority to handle the request. Indeed, the Committee should go further and state that the issue raised in the request was not within the scope of the sanctions on Iraq, except in relation to payments for access to Iraqi airspace.

84. **Mr. Hillman** (United States of America) said that he was unable to agree to a letter in the form suggested

by the representative of France and supported by the representatives of the Russian Federation and China, as his Government took a different view of the situation. He did, however, agree that a request for further information on the issue of overflight fees should be made.

85. **Mr. Mekdad** (Syrian Arab Republic) said that he could answer the questions posed by the Committee very briefly. First, Iraq had granted access to its airspace for the flights in question without attaching financial conditions. He would, however, check with his Government that that was a clear position. Second, the Security Council was routinely notified of flights by Syrian Arab Airlines to Iraq. As the letter before the Committee indicated, the flights in question were direct Damascus-Tehran flights and did not land in Iraq. Third, there were in principle no other fees of any nature involved in the case in question, but he would seek confirmation and pass it on to the Committee.

86. **Mr. Hillman** (United States of America) said that, while reluctant to be negative, he would have to take issue with the assurances given by the representative of Syria regarding routine notification of the Committee in the case of flights to Baghdad, as his Government felt that the Committee was in fact not always appropriately informed.

87. **Mr. Mekdad** (Syrian Arab Republic) said that the Committee was indeed routinely notified of Syrian Arab Airlines flights to Iraq and that the cases to which the representative of the United States had alluded related to flights by another airline. The two cases were not the same, so no hasty conclusions should be drawn.

Other matters

88. **Mr. Geng** Shuang (China) said that the Committee had agreed to request an informal briefing from the Office of the Iraq Programme on the humanitarian impact of the shortfall in the United Nations escrow account. He asked when it would take place. He also asked if the Committee could be briefed informally by Mr. Mocibob of the Contracts Processing and Monitoring Division of the Office of the Iraq Programme on his recent visit to Iraq, particularly regarding implementation of Security Council resolution 1409 (2002) and the issue of holds.

89. **Mr. Mauriès** (France) said that he strongly supported the request of the representative of China for a briefing on the first steps in implementing Security Council resolution 1409 (2002), especially paragraph 18 of the resolution.

90. **Mr. Elfverson** (Director of the Programme Management Division, Office of the Iraq Programme) said that he would try to schedule a briefing for the Committee on the humanitarian impact of the shortfall in the United Nations escrow account. Implementation of Security Council resolution 1409 (2002), meanwhile, was likely to become a major issue in the near future and would in any event be the subject of a report to be issued in September 2002.

91. **Mr. Geng** Shuang (China), joined by **Mr. Mauriès** (France), said that waiting from July until September for briefings was not a desirable situation. He hoped that the Office of the Iraq Programme could schedule the briefings earlier.

92. **Mr. Elfverson** (Director of the Programme Management Division, Office of the Iraq Programme) said that if the Committee wanted a briefing from the Contracts Processing and Monitoring Division, he would discuss the issue with the Executive Director of the Office of the Iraq Programme and communicate a suitable date to the Committee.

The meeting rose at 1.15 p.m.